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Applicants:	Paul T. Van Gompel et al.	Docket No.:	20,088
Serial No.:	10/750,253	T.C./A.U.:	3761
Confirmation No.:	1718	Examiner:	Craig, Paula L.
Filed:	December 31, 2003	Date:	September 20, 2007
For:	DISPOSABLE GARMENT HAVING A LIGHT FRAMEWORK AND FLEXIBLE WAIST CLOSURE		

Commissioner for Patents
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Alexandria, VA 22313-1450

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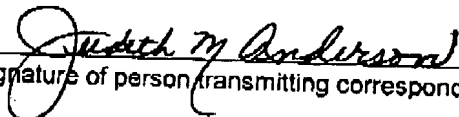
BRIEF ON APPEAL (22 pages)

23 total pages, including this page

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Brief on Appeal to the Board of Patent Appeals and Interferences

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 41.37 Appellants respectfully submit this Brief in support of their Appeal of Examiner Craig's **Final Rejection** of claims 1-45 which was mailed on April 26, 2007.

On July 23, 2007, Appellants, pursuant to 37 C.F.R. 41.31, faxed a timely Notice of Appeal which was received in the USPTO on July 23, 2007. Thus, the time period for filing this Brief ends on September 23, 2007.

Real Party in Interest

The present Application has been assigned to Kimberly-Clark Worldwide, Inc., which is the real party in interest.

Related Appeals and Interferences

To the knowledge of appellants, appellants' legal representative, or assignee, there are no other known related appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-45 are currently pending in the application and have been finally rejected. The claims on appeal are identified as claims 1-45. The appealed claims are recited in the Claims Appendix of this Brief.

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Status of Amendments

No amendments were filed subsequent to the Final Rejection mailed on April 26, 2007.

Summary of Claimed Subject Matter

The following summary correlates claim elements to specific embodiments described in the application specification, but does not in any manner limit claim interpretation. Rather, the following summary is provided only to facilitate the Board's understanding of the subject matter of this appeal.

The subject matter of independent claim 1 is directed to a disposable absorbent garment. The disposable absorbent garment has a longitudinal direction (60) and a lateral direction (70) and includes a front waist region (30), a back waist region (40), and a crotch region (50) that connects the front waist region and the back waist region. (See e.g., Fig. 1). The disposable absorbent garment includes an elastic inner layer (20). The elastic inner layer has an elastic inner layer perimeter (25) wherein the elastic inner layer perimeter forms two longitudinal side edges (55) and two lateral waist edges (35). (See e.g., Fig. 1; page 10, line 13 – page 12, line 3). The elastic inner layer (20) defines an opening (90) located in an internal position to the elastic inner layer perimeter. (See e.g., Fig. 1; page 12, line 3 – page 13, line 9). The disposable absorbent garment further includes an absorbent assembly (150) attached to the exterior surface (27) of the elastic inner layer. (See e.g., Figs. 1 and 6). The absorbent assembly includes a topsheet layer (153), a core layer (155), and a barrier layer (157). The topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded. (See e.g., Figs. 6-10; page 16, lines 4-20).

The subject matter of independent claim 17 is directed to a disposable absorbent garment having the limitations of claim 1 but further includes front ear portions (33) and back ear portions (43). (See e.g., Fig. 1). The front ear portions are bonded to each longitudinal side edge (55) in the front waist region (30). The front ear portion has an interior surface and an exterior surface and the front ear portion includes a fastener (130) on the exterior surface. The

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back ear portions are bonded to each longitudinal side edge (55) in the back waist region (40). (See e.g., Fig. 1). The back ear portion has an interior surface and an exterior surface and the back ear portion includes a fastener (140) on the interior surface.

The subject matter of independent claim 32 is directed to a disposable absorbent garment. The disposable absorbent garment has a longitudinal direction (60) and a lateral direction (70) and includes a front waist region (30), a back waist region (40), and a crotch region (50) that connects the front waist region and the back waist region. (See e.g., Fig. 1). The disposable absorbent garment includes an elastic inner layer (20). The elastic inner layer has an elastic inner layer perimeter (25) wherein the elastic inner layer perimeter forms two longitudinal side edges (55) and two lateral waist edges (35). (See e.g., Fig. 1; page 10, line 13 – page 12, line 3). The elastic inner layer defines an opening (90) located in an internal position to the elastic inner layer perimeter. (See e.g., Fig. 1; page 12, line 3 – page 13, line 9). The elastic inner layer has an interior surface and an exterior surface wherein the front waist region includes a fastener located laterally inward of each longitudinal side edge and adapted to engage into the elastic inner layer of the garment in the back waist region. The back waist region includes a fastener located laterally inward of each longitudinal side edge and adapted to engage into an outer layer of the garment in the front waist region. The disposable absorbent garment further includes an absorbent assembly (150) attached to the exterior surface (27) of the elastic inner layer. (See e.g., Figs. 1 and 6). The absorbent assembly includes a topsheet layer (153), a core layer (155), and a barrier layer (157). The longitudinal side edges of the inner elastic layer (20) form leg cuffs (280). (See e.g., Fig. 6; page 17, lines 18-24). The disposable absorbent garment further includes an outer layer (80) that overlays the absorbent assembly (150) and the exterior surface of the elastic inner layer. (See e.g., Fig. 2; page 21, lines 14-29).

The subject matter of independent claim 45 is directed to a disposable absorbent garment. The disposable absorbent garment has a longitudinal direction (60) and a lateral direction (70) and includes a front waist region (30), a back waist region (40), and a crotch region (50) that connects the front waist region and the back waist region. (See e.g., Fig. 1). The disposable absorbent garment includes an elastic inner layer (20). The elastic inner layer has an elastic inner layer perimeter (25) wherein the elastic inner layer perimeter forms two longitudinal side

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edges (55) and two lateral waist edges (35). (See e.g., Fig. 1; page 10, line 13 – page 12, line 3). The elastic inner layer is elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment. The elastic inner layer defines an opening (90) located in an internal position to the elastic inner layer perimeter. (See e.g., Fig. 1; page 12, line 3 – page 13, line 9). The opening (90) has a length of from 10% to 80% of a total length of the disposable absorbent garment. The elastic inner layer has an interior surface and an exterior surface. The front ear portions are bonded to each longitudinal side edge (55) in the front waist region (30). The front ear portion has an interior surface and an exterior surface and the front ear portion includes a fastener (130) on the exterior surface. The back ear portions are bonded to each longitudinal side edge (55) in the back waist region (40). (See e.g., Fig. 1). The back ear portion has an interior surface and an exterior surface and the back ear portion includes a fastener (140) on the interior surface. The disposable absorbent garment further includes an absorbent assembly (150) attached to the exterior surface (27) of the elastic inner layer. (See e.g., Figs. 1 and 6). The absorbent assembly includes a topsheet layer (153), a core layer (155), and a barrier layer (157). The topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded. (See e.g., Figs. 6-10; page 16, lines 4-20). The longitudinal side edges of the inner elastic layer (20) form leg cuffs (280). (See e.g., Fig. 6; page 17, lines 18-24).

Grounds of Rejection to be Reviewed on Appeal

Ground 1

Claims 1-12, 16-28, 31 and 45 stand rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,174,303 filed September 26, 1997 by *Suprise et al.* (hereinafter "*Suprise*").

Ground 2

Claims 14, 15, 29, and 30 stand rejected under 35 U.S.C. 103(a) over *Suprise*.

Ground 3

Claims 13 and 32-44 stand rejected under 35 U.S.C. 103(a) over *Suprise* in view of U.S. Patent No. 5,269,775 to *Freeland et al.* (hereinafter "*Freeland*").

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Argument

Ground 1 – Rejection Of Claims 1-12, 16-28, 31 and 45

Claims 1-12, 16-28, 31 and 45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Suprise*. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, "[t]he elements must be arranged as required by the claim," M.P.E.P. § 2131 referencing *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990); see also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Also, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131 (citing *Richardson*, 868 F.2d at 1236 (Fed. Cir. 1989)). Appellants respectfully submit that the Examiner's rejection is improper and should be reversed because *Suprise* does not set forth each and every element of the claims.

Suprise does not teach an absorbent assembly having lateral extensions that are C-folded or Z-folded.

The Examiner collectively characterizes the waist flaps 80 and 82 and the containment flaps 100 and 102 of *Suprise* as the "elastic inner layer." Furthermore, the Examiner characterizes the space between the waist flaps and the containment flaps as the "opening." Assuming for the sake of argument that this characterization is proper, *Suprise* still does not teach all the claim elements. Namely, independent claims 1, 17, and 45 further require

an absorbent assembly attached to the exterior surface of the elastic inner layer, wherein the absorbent assembly includes a topsheet layer, a core layer and a barrier layer, and wherein the topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded.

Suprise does not teach an absorbent assembly having lateral extensions that are C-folded or Z-folded. The Examiner states that "such elasticized edges are fully capable of being C-folded or Z-folded as the wearer moves." (OA dated 7/18/06 at 4:7-8, emphasis added). A C-fold or Z-fold describes the folding and attachment condition of the extensions. Thus, the "capability" of the elasticized edges in use is not material as to whether this claim limitation is satisfied. Appellants' specification at page 16, lines 4-16 states that

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The lateral extensions of the topsheet layer 153 and the barrier layer 157 may be C-folded or Z-folded prior to attachment to the exterior surface 27 of the elastic inner layer 20. Fig. 6 shows the lateral extensions of the topsheet layer 153 and the barrier layer 157 being Z-folded and attached to the exterior surface 27.... The lateral extensions of the topsheet layer 153 and the barrier layer 157 provide additional volume to hold a larger quantity of absorbent and waste materials without affecting the fit of the garment 100. (emphasis added).

Figure 6 of Appellants' specification is reproduced below and illustrates an exemplary "Z-fold" as described above.

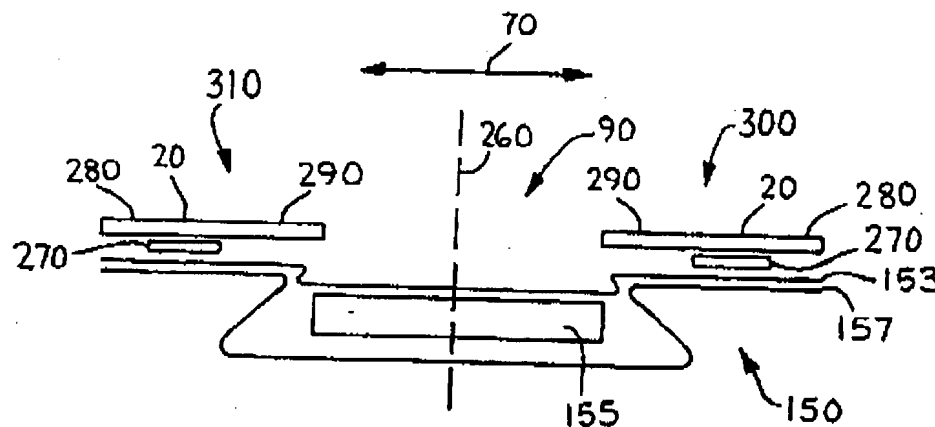


FIG. 6

The Examiner states that "Applicant argues that the specification teaches that the lateral extensions may be C-folded or Z-folded prior to attachment. However, the claims do not require that the lateral extensions be C-folded or Z-folded prior to attachment." (OA dated 4/26/07). Appellants respectfully note that the claims require that the topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded. Appellants do not argue that the lateral extensions may be C-folded or Z-folded prior to attachment. Instead, Appellants merely cite the specification which describes that in some embodiments the lateral extensions of the topsheet layer 153 and the barrier layer 157 are C-folded or Z-folded prior to attachment to the exterior surface 27 of the elastic inner layer 20 and thus result in extensions that are C-folded or Z-folded in the absorbent article.

In contrast, *Suprise* does not teach a topsheet layer and a barrier layer attached to the exterior surface of the elastic inner layer and having lateral extensions that are C-folded...

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Z-folded, as taught and claimed by Appellants' specification. As can be seen in Fig. 1 of *Suprise*, reproduced below, the bodyside liner 54 and the backsheet 52 are attached to the elastic inner layer flat not C-folded or Z-folded irrespective of what might occur "as the wearer moves."

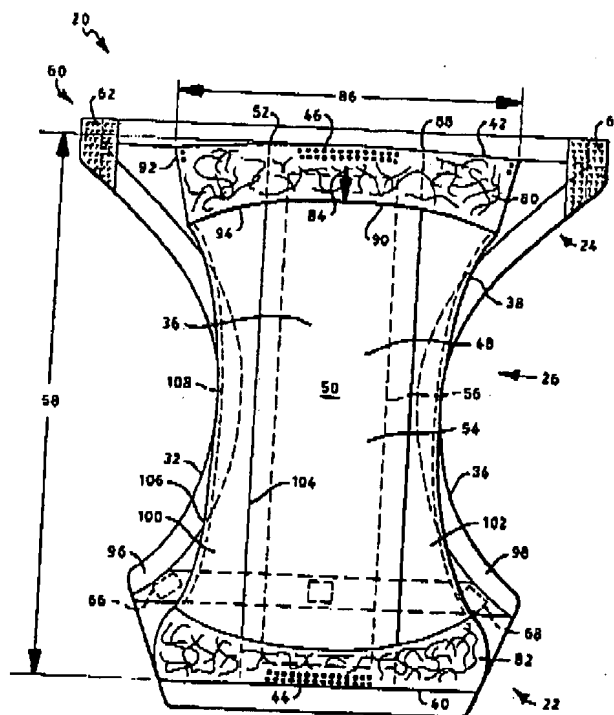


FIG. 2

Thus, claims 1, 17, and 42 are not anticipated by *Suprise* because *Suprise* does not teach a topsheet layer or a barrier layer attached to the exterior surface of the elastic inner layer having lateral extensions that are C-folded or Z-folded. Claims 2-12, 16, 18-28, and 31 depend from either claims 1 or 17 and are patentably distinct over *Suprise* for at least the same reason. Therefore, Appellants respectfully request that the rejection of these claims be withdrawn.

Ground 2 – Rejection Of Claims 14, 15, 29 and 30

Claims 14, 15, 29 and 30 stand rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over *Suprise*. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the features of the references. The second criterion is that the combination of the features of the references must be obvious to one of ordinary skill in the art. The third criterion is that the combination of the features of the references must be obvious to one of ordinary skill in the art. The third criterion is that the combination of the features of the references must be obvious to one of ordinary skill in the art.

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art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. M.P.E.P. § 2142, 2143.

Appellants respectfully submit that the Examiner's rejection is improper and should be reversed at least because *Suprise* fails to teach or suggest all of the claim limitations. Specifically, as discussed above, *Suprise* does not teach a topsheet layer or a barrier layer attached to the exterior surface of the elastic inner layer and having lateral extensions that are C-folded or Z-folded. Therefore, claims 1 and 17 are not rendered obvious over *Suprise* because the prior art reference does not teach or suggest all the claim limitations. Claims 14, 15, 29, and 30 depend from either claims 1 or 17 and are patentably distinct over *Suprise* for at least the same reason. Therefore, Appellants respectfully request that the rejection of these claims be withdrawn.

Ground 3 – Rejection Of Claims 13 and 32-44

Claims 13 and 32-44 stand rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over *Suprise* in view of *Freeland*. Appellants respectfully submit that the Examiner's rejection is improper and should be reversed because the combination of *Suprise* and *Freeland* fails to teach or suggest all of the claim limitations.

As discussed above, *Suprise* does not teach a topsheet layer or a barrier layer attached to the exterior surface of the elastic inner layer and having lateral extensions that are C-folded or Z-folded. Claim 13 depends from claim 1 and is patentably distinct over *Suprise* for at least the same reason. Therefore, Appellants respectfully request that the rejection of this claim be withdrawn.

Additionally, no *prima facie* case of obviousness has been established regarding claims 13 and 32 because the combination of *Suprise* and *Freeland* do not teach or suggest, alone or in combination, all the claim limitations. Furthermore, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings.

The combination of *Suprise* and *Freeland* do not teach or suggest all the claim limitations.

Claims 13 and 32 require, in part, that

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the front waist region comprises a fastener located laterally inward of each longitudinal side edge [of the elastic inner layer] and ... the back waist region comprises a fastener located laterally inward of each longitudinal side edge [of the elastic inner layer]....

Referring to Fig. 2 of *Surprise* above, it is clear that both the primary fasteners 62 and 64 and the second fasteners 66 and 68 are not located laterally inward of the longitudinal side edge of the waist flaps 80 and 82 or the containment flaps 100 and 102 (which the Examiner collectively considers to be the elastic inner layer). The Examiner acknowledges this fact stating that "Suprise does not expressly teach the fasteners of the back waist region being located laterally inward of each longitudinal side edge of the elastic inner layer." (OA dated 7/18/06 at page 11).

Furthermore, the Examiner states that "Applicant's specification does not disclose that having the fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer serves any stated purpose or solves any particular problem." Appellants respectfully disagree with the relevance of this statement. Whether the "purpose" or "problem solved" by this element is disclosed is inapposite to the fact that *Suprise* does not teach said element.

Regardless, Appellants' specification does disclose the purpose of this configuration. Namely, the specification, starting at page 22, line 28, states that

The fasteners 140 may be provided near the longitudinal side edge 55 of the garment 100 and near where the elastic inner layer perimeter 25 is bonded to the outer layer 80. Positioning the fasteners 140 in this location provides for the smaller elastic inner layer 20 to stretch before the outer layer 80 during application and as a result, the elastic inner layer 20 may snugly fit to the body.

In an effort to cure the defects of *Suprise*, the Examiner states on page 12 of the office action dated 7/18/06 that

having fasteners in the back waist region located laterally inward of each longitudinal side edge of an elastic inner layer is well known in the art. This is confirmed by Freeland

...

Freeland teaches fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer (Figs. 1-2, col. 2, line 65 to col. 3, line 2, and col. 3, lines 43-63).

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It would have been obvious to one of ordinary skill in the art to modify Surprise to include fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer, as taught by Freeland.

Appellants respectfully disagree because *Freeland* does not teach fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer as asserted by the Examiner. In contrast to the claim language, Figure 1 of *Freeland* does not illustrate any fasteners. Figure 2 of *Freeland* does illustrate fasteners 36, but fasteners 36 are not located laterally inward of each longitudinal side edge of the elastic inner layer. Instead, fasteners 36 are located laterally outward of the longitudinal side edge. Similarly, the cited portions of *Freeland* do not teach fasteners located laterally inward of each longitudinal side edge of the elastic inner layer.

There is no motivation to modify Surprise as suggested.

In the office action dated 4/26/07 at page 3, the Examiner states that

Surprise teaches the entirety of the back waist region being elastic (outer layer is elastic, col. 4, lines 55-65). It would therefore be obvious to modify Surprise to include the elastic inner layer extending over the entirety of the back waist region, so the fasteners are located laterally inward of the longitudinal side edge of the elastic inner layer.

The court in KSR rejected a rigid application of the "teaching, suggestion, or motivation" (TSM) test, which required a showing of some teaching, suggestion, or motivation in the prior art that would lead one of ordinary skill in the art to combine the prior art elements in the manner claimed in the application or patent before holding the claimed subject matter to be obvious. *Id.* ¶ (3). The court in KSR noted, however, that the analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit, and that it was "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *Id.* p. 2, ¶ (4)(emphasis added).

The Examiner states that "A similar arrangement in which the fasteners are located laterally inward of the longitudinal side edge of the elastic inner layer is shown in" and then recites a list of 8 patents and publications without specific reference to any particular portions.

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This seems to suggest that the Examiner considers this limitation to be common knowledge in the art at the time Appellants' application was filed.

Appellants respectfully disagree with this suggestion because, while an exhaustive analysis of the cited references was not undertaken, none of the cited references appear to teach a back waist region having a fastener located laterally inward of each longitudinal side edge of an elastic inner layer as claimed. However, the Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner has not directed Appellants to any relevant citations within the references and thus has not met this burden.

Even assuming, *arguendo*, one or more of the references does teach said configuration, the Examiner has not identified a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the manner claimed. Thus, no *prima facie* case of obviousness has been established and claims 13 and 32 are patentably distinct over the combination of *Suprise* and *Freeland* and the other cited references for at least this reason. Claims 33-44 depend from claim 32 and are patentably distinct over the combination for at least the same reason.

For at least the reasons set forth above, Appellants respectfully request that all the rejections under 35 U.S.C. § 103 be withdrawn.

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Conclusion

For the reasons stated above it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be reversed by the Board.

Please charge the \$500.00 fee (fee code 1402), pursuant to 37 C.F.R. 41.20(b)(2), for filing this Appeal Brief to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Any additional prosecutorial fees which are due may also be charged to deposit account number 11-0875.

The undersigned may be reached at: 920-721-3016

Respectfully submitted,

PAUL T. VAN GOMPEL ET AL.

By



David J. Arteman

Registration No.: 44,512

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Claims Appendix – Listing of the Claims On Appeal

The claims on appeal are:

1. A disposable absorbent garment, the disposable absorbent garment having a longitudinal direction and a lateral direction and including a front waist region, a back waist region and a crotch region that connects the front waist region and the back waist region, the disposable absorbent garment further comprising:

an elastic inner layer, wherein the elastic inner layer has an elastic inner layer perimeter, wherein the elastic inner layer perimeter forms two longitudinal side edges and two lateral waist edges;

wherein the elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter; and

an absorbent assembly attached to the exterior surface of the elastic inner layer, wherein the absorbent assembly includes a topsheet layer, a core layer and a barrier layer, and wherein the topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded.

2. The disposable absorbent garment of claim 1, wherein the elastic inner layer is elastic in the lateral direction of the disposable absorbent garment.

3. The disposable absorbent garment of claim 1, wherein the elastic inner layer is elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment.

4. The disposable absorbent garment of claim 1, wherein the elastic inner layer is liquid impermeable.

5. The disposable absorbent garment of claim 1, wherein the elastic inner layer includes two

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or more layers of materials.

6. The disposable absorbent garment of claim 1, wherein the elastic inner layer includes a front piece, a back piece and a crotch piece, wherein the crotch piece is attached to the front piece and the back piece and wherein the front piece and the back piece are elastic in the lateral direction of the disposable absorbent garment and the crotch piece is elastic in the longitudinal direction of the disposable absorbent garment.

7. The disposable absorbent garment of claim 1, wherein the opening has a length of from 10% to 80% of a total length of the disposable absorbent garment.

8. The disposable absorbent garment of claim 1, the disposable absorbent garment further including an outer layer.

9. The disposable absorbent garment of claim 8, wherein the outer layer has an outer layer perimeter, wherein the outer layer perimeter is bonded to the elastic inner layer perimeter.

10. The disposable absorbent garment of claim 8, wherein the elastic inner layer perimeter is bonded to the outer layer with a plurality of ultrasonic, adhesive or thermal bonds.

11. The disposable absorbent garment of claim 1, wherein the longitudinal side edges of the elastic inner layer form leg cuffs.

12. The disposable absorbent garment of claim 1, wherein the longitudinal side edges of the topsheet layer and the barrier layer are gathered and form leg cuffs.

13. The disposable absorbent garment of claim 1, wherein the elastic inner layer has an interior surface and an exterior surface, wherein the exterior surface in the front waist region

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comprises a fastener located laterally inward of each longitudinal side edge; and wherein the interior surface in the back waist region comprises a fastener located laterally inward of each longitudinal side edge.

14. The disposable absorbent garment of claim 13, wherein the front waist region fastener has a crotch-to-fastener angle equal to or greater than 45 degrees.

15. The disposable absorbent garment of claim 13, wherein the front waist region has a front center panel length of equal to or less than 6 inches.

16. The disposable absorbent garment of claim 15, wherein the front waist region fastener has a length equal to or less than the front center panel length.

17. A disposable absorbent garment, the disposable absorbent garment having a longitudinal direction and a lateral direction and including a front waist region, a back waist region and a crotch region that connects the front waist region and the back waist region, the disposable absorbent garment further comprising:

an elastic inner layer, wherein the elastic inner layer has an elastic inner layer perimeter, wherein the elastic inner layer perimeter forms two longitudinal side edges and two lateral waist edges;

wherein the elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter and wherein the elastic inner layer has an interior surface and an exterior surface;

a front ear portion bonded to each longitudinal side edge in the front waist region, wherein the front ear portion has an interior surface and an exterior surface, and wherein the front ear portion comprises a fastener on the exterior surface;

a back ear portion bonded to each longitudinal side edge in the back waist region, wherein the back ear portion has an interior surface and an exterior surface, and wherein the back ear portion comprises a fastener on the interior surface; and

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an absorbent assembly attached to the exterior surface of the elastic inner layer, wherein the absorbent assembly includes a topsheet layer, a core layer and a barrier layer wherein the topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded.

18. The disposable absorbent garment of claim 17, wherein the elastic inner layer is elastic in the lateral direction of the disposable absorbent garment.

19. The disposable absorbent garment of claim 17, wherein the elastic inner layer is elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment.

20. The disposable absorbent garment of claim 17, wherein the elastic inner layer is liquid impermeable.

21. The disposable absorbent garment of claim 17, wherein the elastic inner layer includes two or more layers of materials.

22. The disposable absorbent garment of claim 17, wherein the elastic inner layer includes a front piece, a back piece and a crotch piece, wherein the crotch piece is attached to the front piece and the back piece and wherein the front piece and the back piece are elastic in the lateral direction of the disposable absorbent garment and the crotch piece is elastic in the longitudinal direction of the disposable absorbent garment.

23. The disposable absorbent garment of claim 17, wherein the opening has a length of from 10% to 80% of a total length of the disposable absorbent garment.

24. The disposable absorbent garment of claim 17, the disposable absorbent garment further including an outer layer.

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25. The disposable absorbent garment of claim 24, wherein the outer layer has an outer layer perimeter, wherein the outer layer perimeter is bonded to the elastic inner layer perimeter.
26. The disposable absorbent garment of claim 24, wherein the elastic inner layer perimeter is bonded to the outer layer with a plurality of ultrasonic, adhesive or thermal bonds.
27. The disposable absorbent garment of claim 17, wherein the longitudinal side edges of the elastic inner layer form leg cuffs.
28. The disposable absorbent garment of claim 17, wherein the longitudinal side edges of the topsheet layer and the barrier layer are gathered and form leg cuffs.
29. The disposable absorbent garment of claim 17, wherein the front ear portion fastener has a crotch-to-fastener angle equal to or greater than 45 degrees.
30. The disposable absorbent garment of claim 17, wherein the front waist region has a front center panel length of equal to or less than 6 inches.
31. The disposable absorbent garment of claim 30, wherein the front ear portion fastener has a length equal to or less than the front center panel length.
32. A disposable absorbent garment, the disposable absorbent garment having a longitudinal direction and a lateral direction and including a front waist region, a back waist region and a crotch region that connects the front waist region and the back waist region, the disposable absorbent garment further comprising:
an elastic inner layer, wherein the elastic inner layer has an elastic inner layer perimeter, wherein the elastic inner layer perimeter forms two longitudinal side edges and two lateral waist edges;

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wherein the elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter;

wherein the elastic inner layer has an interior surface and an exterior surface, wherein the front waist region comprises a fastener located laterally inward of each longitudinal side edge and adapted to engage into the elastic inner layer of the garment in the back waist region; and wherein the back waist region comprises a fastener located laterally inward of each longitudinal side edge and adapted to engage into an outer layer of the garment in the front waist region;

an absorbent assembly attached to the exterior surface of the elastic inner layer, wherein the absorbent assembly includes a topsheet layer, a core layer and a barrier layer;

wherein the longitudinal side edges of the inner elastic layer form leg cuffs; and

wherein the outer layer overlays the absorbent assembly and the exterior surface of the elastic inner layer.

33. The disposable absorbent garment of claim 32, wherein the elastic inner layer is elastic in the lateral direction of the disposable absorbent garment.

34. The disposable absorbent garment of claim 32, wherein the elastic inner layer is elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment.

35. The disposable absorbent garment of claim 32, wherein the elastic inner layer is liquid impermeable.

36. The disposable absorbent garment of claim 32, wherein the elastic inner layer includes two or more layers of materials.

37. The disposable absorbent garment of claim 32, wherein the elastic inner layer includes a front piece, a back piece and a crotch piece, wherein the crotch piece is attached to the front

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piece and the back piece and wherein the front piece and the back piece are elastic in the lateral direction of the disposable absorbent garment and the crotch piece is elastic in the longitudinal direction of the disposable absorbent garment.

38. The disposable absorbent garment of claim 32, wherein the opening has a length of from 10% to 80% of a total length of the disposable absorbent garment.

39. The disposable absorbent garment of claim 32, the disposable absorbent garment further including an outer layer.

40. The disposable absorbent garment of claim 39, wherein the outer layer has an outer layer perimeter, wherein the outer layer perimeter is bonded to the elastic inner layer perimeter.

41. The disposable absorbent garment of claim 39, wherein the elastic inner layer perimeter is bonded to the outer layer with a plurality of ultrasonic, adhesive or thermal bonds.

42. The disposable absorbent garment of claim 32, wherein the front waist region fastener has a crotch-to-fastener angle equal to or greater than 45 degrees.

43. The disposable absorbent garment of claim 32, wherein the front waist region has a front center panel length of equal to or less than 6 inches.

44. The disposable absorbent garment of claim 43, wherein the front waist region fastener has a length equal to or less than the front center panel length.

45. A disposable absorbent garment, the disposable absorbent garment having a longitudinal direction and a lateral direction and including a front waist region, a back waist region and a crotch region that connects the front waist region and the back waist region, the disposable

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absorbent garment further comprising:

an elastic inner layer, wherein the elastic inner layer has an elastic inner layer perimeter, wherein the elastic inner layer perimeter forms two longitudinal side edges and two lateral waist edges and wherein the elastic inner layer is elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment;

wherein the elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter, wherein the opening has a length of from 10% to 80% of a total length of the disposable absorbent garment;

wherein the elastic inner layer has an interior surface and an exterior surface;

a front ear portion bonded to each longitudinal side edge in the front waist region, wherein the front ear portion has an interior surface and an exterior surface, and wherein the front ear portion comprises a fastener on the exterior surface;

a back ear portion bonded to each longitudinal side edge in the back waist region, wherein the back ear portion has an interior surface and an exterior surface, and wherein the back ear portion comprises a fastener on the interior surface;

an absorbent assembly attached to the exterior surface of the elastic inner layer, wherein the absorbent assembly includes a topsheet layer, a core layer and a barrier layer wherein the topsheet layer and barrier layer have lateral extensions that are C-folded or Z-folded; and

wherein the longitudinal side edges of the inner elastic layer form leg cuffs.

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Evidence Appendix

None

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Related Proceedings Appendix

None